

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BSD MANAGEMENT,

Plaintiff,

NO. 2:22-cv-11763

v.

Hon. STEPHEN J. MURPHY, III

ERAN ROZEN; MR. FROST, INC,
SALPAI INC AND BELLAS
& WACHOWSKI,

Defendant.

SOLOMON M. RADNER (P73653)
MARTIN E. RADNER (P79894)
Radner Law Group, PLLC
Attorney for Plaintiff
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Southfield, MI 48033
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martin@radnerlawgroup.com

PLAINTIFF'S MOTION FOR ALTERNATE SERVICE

NOW COMES, Plaintiff, BSD Management by and through its counsel, Radner Law Group, PLLC and states as follows:

- 1) Plaintiff filed this lawsuit for Statutory conversion, common law conversion, fraud and unjust enrichment against defendants Eran Rozen, Mr Frost, Inc., and Salpai, Inc.
- 2) Plaintiff has served and defaulted Mr. Frost Inc.

- 3) Plaintiff located the address of Salpai, Inc. and Eran Rozen who is the CEO of Salpai Inc. from a complaint filed by Salpai, Inc. against Bellas and Wachowski. **(Exhibit 1)**
- 4) The address listed in the complaint in paragraph 15 which was drafted and filed by Salpai is 20 Pine Street Ste. 1116, New York, NY 10005. **(Id.)**
- 5) Additionally, the address for Salpai, Inc. listed on the Sales Contract is also 20 Pine Street Suite 1116, New York, NY 10005 **(Exhibit 2)**
- 6) Plaintiff served via certified mail tracking number 7020 2450 0001 6389 8580 to 20 Pine Street Suite 1116, New York, New York, 10005. The envelope was returned and Plaintiff received no response.
- 7) It is apparent that Salpai, Inc. and Eran Rozen are ducking service.
- 8) Additionally, it is apparent that Mr. Frost, Salpai, Inc. are all the same company operated by Eran Rozen, the CEO under different names in an attempt to use different corporate shields.
- 9) Evidence of this, is the fact that on the Sales Contract **(Id.)** the seller is identified as Salpai, Inc. and in the Confidentiality and Non-Circumvention agreement the seller is identified as Mr. Frost. Inc. **(Exhibit 3)**
- 10) Both of these documents are signed by Eran Rozen.

- 11) It is clear that Eran Rozen uses both Mr. Frost, Inc and Salpai interchangeably even within the same transaction or occurrence and should be considered the same corporation for the purpose of this lawsuit.
- 12) At the current time, Salpai, Inc. and Bellas and Wachowski, are working together as a result of litigation wherein Salpai, Inc. sued Bellas and Wachowski in The United States District Court for the Southern District of New York, case number 1:21-cv-02677, and in which Bellas and Wachowski are making payments towards a resolution which occurred in that case.
- 13) The firm representing Salpai, Inc. in the New York litigation is Levin-Epstein & Associates, P.C. located at 60 East 42nd Street, Room 4700, New York, New York 10165. The attorney who signed the stipulation of voluntary dismissal is Joshua D. Levin-Epstein, Esq, whose email address is Joshua@levinepstein.com. **(Exhibit 4)**
- 14) Attorney for Bellas and Wachowski and Salpai, Inc. are in contact with each other as a result of the ongoing resolution of that case.
- 15) Plaintiff respectfully requests that since Mr. Frost, Inc. and Salpai, Inc. are operated by the same person, Eran Rozen and that Eran Rozen uses both companies interchangeably within the same transaction, and that Mr.

Frost, Inc. has been defaulted, that the default be imputed onto Salpai, Inc and Eran Rozen.

- 16) In the alternative, Plaintiff respectfully requests that as alternate service for Salpai, Inc. and Eran Rozen, that Plaintiff email and mail via US 1st class mail, a copy of the complaint and summons to Salpai's attorney as well as Bellas and Wachowski's attorney, whose information is below.

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14. There is no question that with this service both Salpai, Inc. and Eran Rozen will be given actual notice of the instant lawsuit.

Respectfully submitted,

RADNER LAW GROUP, PLLC

/s/ Solomon M. Radner

Solomon M. Radner (P73653)

Attorney for Plaintiff

17515 West Nine Mile Road Suite 1050

Southfield, MI 48075

Phone: 313.573.8761

Fax: 248.281.5264

Dated: September 19, 2022

PLAINTIFF'S BREIF IN SUPPORT

Alternate Service

“Service of process on an individual may be accomplished by several means, including by ‘following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made.’” *Zellerino v. Roosen*, 2014 U.S. Dist. LEXIS 197905, at *1 (E.D. Mich. Nov. 17, 2014) (quoting Fed. R. Civ. Pro. 4(e)(1)).

“Under Michigan law, to obtain permission for alternate service, the plaintiff must establish (1) that service cannot be made by the prescribed means, and (2) that the proposed alternate method is likely to give actual notice.” *Id.* “The first point must be established by ‘sufficient facts.’” *Id.* (citing Mich. Ct. R. 2.105(I)(2); see *Krueger v. Williams*, 410 Mich. 144, 163, 300 N.W.2d 910, 916 (1981)). “The second point embodies the constitutional requirements of due process.” *Id.* at *1-2 (citing *Milliken v. Meyer*, 311 U.S. 457, 463, 61 S. Ct. 339, 85 L. Ed. 278 (1940) (holding that the constitutional adequacy of an alternate method of service “is dependent on whether or not the form of substituted service provided for such cases and employed is reasonably calculated to give [the defendant] actual notice of the proceedings and an opportunity to be heard”))).

CONCLUSION

Defendant Salpai, Inc. and Eran Rozen presumably already know about this lawsuit since Mr. Frost, Inc was served and is now in default. Salpai, Inc. and Eran Rozen should be permitted to hide under a corporate shield since Eran Rozen uses both companies interchangeably in the same transactions and occurrences. At the very least, alternate service should be permitted in the way described in Plaintiff's Motion.

Respectfully submitted,

RADNER LAW GROUP, PLLC

/s/ Solomon M. Radner

Solomon M. Radner (P73653)

Attorney for Plaintiff

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Southfield, MI 48075

Phone: 313.573.8761

Fax: 248.281.5264

Dated: September 19, 2022

CERTIFICATE OF SERVICE On September 19, 2022, I hereby affirm that I served a copy of the foregoing Plaintiff's Motion for Alternative Service; in the above captioned matter, via electronic service through the Court's CM/ECF filing system to all parties having appeared in this matter, and by First Class Mail by enclosing the same in an envelope with sufficient postage to the following:

Steven Blonder
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Chicago, IL 60606
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Dated: September 19, 2022

/s/ Solomon M. Radner
Attorney for Plaintiff